

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, FIRST CALLED SESSION

PROCEEDINGS

SECOND DAY — THURSDAY, JULY 3, 2003

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 2).

Present — Mr. Speaker; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Noriega; Oliveira; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Stick; Swinford; Talton; Taylor; Telford; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wong; Woolley; Zedler.

Absent, Excused — Allen; Nixon; Olivo; Smithee; Solis; Wolens.

Absent — Thompson.

The invocation was offered by Dr. Richard Jenkins, pastor, First United Methodist Church, Marlin, as follows:

O higher power of all that is and ever will be, O God, our help in ages past, our hope for years to come, we come this morning acknowledging that there are deep divisions among us. Yet, even amid division, there is unity, which brought this nation together 227 years ago.

For just a moment, enable us to set aside our selfish and partisan political desires and set before us the vision of those who first set foot upon our shores. Our founding patriots have bled, died, and stained our land and conscience with their blood for the purpose of life, liberty, and the pursuit of happiness, regardless of race, creed, or color.

Let us unite and join hands to build a better world and a better Texas for those who will come after us. Let us remember as we stand in these hallowed halls and corridors that we have come together for the greater good of all humanity.

Faithful one, let us not disguise our selfishness in the cloak of patriotism nor masquerade our arrogance under the pretense of pride. Forgive us where we have sought to place our power and ideas above the needs of the poor and the disenfranchised.

Please, O mighty one, do not isolate us from the bleeding wounds of a hurting, blundering, and stumbling world. And dear God, watch over and keep those who have sworn an oath to protect and defend our nation and our state as members in all branches of our armed forces and those who serve in civilian posts throughout the world.

Now, as we get on with the business of this day, may we do so in the spirit of true politics and never forget that politics is the art of compromise for the greater good of all humankind. Please dear God, may we not fail thee nor those by whom we have been elected to serve. In thy name we pray. Amen.

CAPITOL PHYSICIAN

The speaker recognized Representative Lewis who presented Dr. Paul Erickson of Fort Worth as the "Doctor for the Day."

The house welcomed Dr. Erickson and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

(Woolley in the chair)

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for today because of important business in the district:

Olivo on motion of Uresti.

Smithee on motion of Kuempel.

Solis on motion of Uresti.

The following member was granted leave of absence for today because of family business:

Wolens on motion of Eissler.

The following member was granted leave of absence for today because of illness:

Allen on motion of Haggerty.

The following member was granted leave of absence for today because of a death in the family:

Nixon on motion of Kuempel.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

**PROCLAMATIONS BY THE GOVERNOR
OF THE STATE OF TEXAS**

The chair laid before the house and had read the following proclamations by the governor:

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
SEVENTY-EIGHTH TEXAS LEGISLATURE, FIRST CALLED SESSION:

WHEREAS, the people of Texas through their state Constitution have placed the power to call the legislature into special session in the hands of the Chief Executive Officer of the State; and

WHEREAS, the members of the Seventy-Eighth Texas Legislature, First Called Session, have now convened to consider items presented to them by the Governor;

NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation relating to abolishing the Office of State-Federal Relations and moving its functions to the Office of the Governor.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

Rick Perry
Governor of Texas

(SEAL)
Gwyn Shea
Secretary of State

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
SEVENTY-EIGHTH TEXAS LEGISLATURE, FIRST CALLED SESSION:

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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation permitting the Governor as the Chief Executive Officer of the executive branch of government to designate the presiding officers for executive branch agencies.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

Rick Perry
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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation relating to a modification in the qualifications for the Commissioner of Insurance.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

Rick Perry
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Gwyn Shea
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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation relating to a reconstitution of the membership of the Texas Building and Procurement Commission.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation modifying the organizational pattern of the Texas Board of Pardons and Paroles.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation relating to the abolition of the Texas Commission on Private Security.

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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation relating to legislative and executive branch working papers on the budget.

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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation creating a study on private prisons.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation relating to the procedures followed in condemnation proceeding in a county civil court at law in Harris County.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation relating to a modification in the qualifications for membership on the Texas Parks and Wildlife Commission.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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Legislation streamlining the environmental permitting and regulation process in Texas for competitiveness with other states.

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Legislation permitting the reorganization of legislative support agencies and offices.

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Legislation modifying the Governor's budget authority.

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Legislation permitting the Legislative Budget Board to meet by teleconference.

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Legislation modifying the scope and function of the State Office of Risk Management.

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Legislation directing the Texas Coordinating Board of Higher Education to review the organization and operation of each university system office.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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Legislation relating to a modification in the qualifications for membership on the Texas Veterans Commission.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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Legislation relating to the abandonment of proceeds on demutualization.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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Legislation relating to a transfer in the oversight of Regional Planning Commissions to the State Auditor's Office.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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Legislation designating Texas Department of Public Safety as the agency to establish school bus safety standards.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation relating to the abolition of Aircraft Pooling Board.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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Legislation appropriating fees established by legislation from the Seventy-Eighth Regular Session of the Texas Legislature that remain unappropriated as of this date. This matter shall be strictly construed to only include fees that were established during that session of the legislature.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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Legislation relating to civil claims involving exposure to asbestos.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation amending Section 86.007(d)(3) of the Texas Election Code, to provide for one uniform deadline for receiving late ballots for all elections and legislation amending Section 87.125(a) of the Texas Election Code, to provide for one uniform time period for the ballot board to convene to count late mail ballots.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation amending Section 67.003 of the Texas Election Code, to provide for one uniform day for canvassing elections for the general election for state and county officers and for all other local elections.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

Rick Perry
Governor of Texas

(SEAL)

Gwyn Shea
Secretary of State

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
SEVENTY-EIGHTH TEXAS LEGISLATURE, FIRST CALLED SESSION:

WHEREAS, the people of Texas through their state Constitution have placed the power to call the legislature into special session in the hands of the Chief Executive Officer of the State; and

WHEREAS, the members of the Seventy-Eighth Texas Legislature, First Called Session, have now convened to consider items presented to them by the Governor;

NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation amending Section 41.001(a) of the Texas Election Code to re-establish the first Saturday in May as the May uniform election date.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

Rick Perry
Governor of Texas

(SEAL)

Gwyn Shea
Secretary of State

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SEVENTY-EIGHTH TEXAS LEGISLATURE, FIRST CALLED SESSION:

WHEREAS, the people of Texas through their state Constitution have placed the power to call the legislature into special session in the hands of the Chief Executive Officer of the State; and

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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation amending Section 41.007(b) of the Texas Election Code, to re-establish the runoff primary election date to the second Tuesday in April.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

Rick Perry
Governor of Texas

(SEAL)
Gwyn Shea
Secretary of State

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
SEVENTY-EIGHTH TEXAS LEGISLATURE, FIRST CALLED SESSION:

WHEREAS, the people of Texas through their state Constitution have placed the power to call the legislature into special session in the hands of the Chief Executive Officer of the State; and

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NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following matter to the Seventy-Eighth Texas Legislature, First Called Session for consideration:

Legislation relating to corrections to **HB 3588** from the Seventy-Eighth Regular Session of the Texas Legislature concerning transportation and trauma issues.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 1st day of July, 2003.

Rick Perry
Governor of Texas

(SEAL)
Gwyn Shea
Secretary of State

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business:

Thompson on motion of Geren.

The following member was granted leave of absence for the remainder of today because of illness:

Ritter on motion of Ellis.

The following member was granted leave of absence for the remainder of today because of illness in the family:

Dawson on motion of Wong.

HR 6 - ADOPTED (by Hamric)

Representative Hamric moved to suspend all necessary rules to take up and consider at this time **HR 6**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 6, Congratulating Charles and Suzanne Saunders on the birth of their beloved son, Jackson Charles Saunders.

HR 6 was read and was adopted without objection.

On motion of Representative Eissler, the names of all the members of the house were added to **HR 6** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Hamric who introduced Charles and Suzanne Saunders, and their son Jackson Charles Saunders.

SCR 1 - ADOPTED (Geren - House Sponsor)

Representative Geren moved to suspend all necessary rules to take up and consider at this time **SCR 1**.

The motion prevailed without objection.

The following resolution was laid before the house:

SCR 1, Granting the legislature permission to adjourn for more than three days.

SCR 1 was adopted without objection.

(Speaker in the chair)

HR 7 - MOTION TO ADOPT (by Raymond)

Representative Raymond moved to suspend all necessary rules to take up and consider at this time **HR 7**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 7, Amending the house rules to prohibit a committee from requiring a witness to provide a social security number.

Amendment No. 1

Representative Raymond offered the following amendment to **HR 7**:

Amend **HR 7** by adding the following to added Subsection (e):

The general investigating committee in examining witnesses pursuant to an investigation by that committee may require a witness to provide the witnesses' social security number for the purpose of identification.

Amendment No. 1 was adopted without objection.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Goodman on motion of Swinford.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Bailey on motion of Luna.

HR 7 - (consideration continued)

Representative D. Jones moved to table **HR 7**.

A record vote was requested.

The motion to table was lost by (Record 3): 65 Yeas, 66 Nays, 1 Present, not voting.

Yeas — Baxter; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hunter; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; King; Krusee; Kuempel; Laubenberg; Madden; Marchant; Merritt; Miller; Morrison; Mowery; Paxton; Phillips; Reyna; Riddle; Smith, W.; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Zedler.

Nays — Alonzo; Berman; Bonnen; Burnam; Capelo; Castro; Chavez; Coleman; Cook, R.; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Escobar; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Guillen; Gutierrez; Haggerty; Hamilton; Hochberg; Hodge; Homer; Hopson; Hughes; Hupp; Jones, J.; Keffer, J.; Kolkhorst; Laney; Luna; Mabry; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Moreno, J.; Moreno, P.; Naishtat; Noriega; Peña; Pitts; Puente; Quintanilla; Raymond; Rodriguez; Rose; Solomons; Telford; Uresti; Villarreal; Wilson; Wise; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Allen; Bailey; Dawson; Goodman; Nixon; Olivo; Ritter; Smithee; Solis; Thompson; Wolens.

Absent — Canales; Lewis; Oliveira; Pickett; Seaman; Smith, T.; Turner.

STATEMENT OF VOTE

I was shown voting yes on Record No. 3. I intended to vote no.

Merritt

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness:

Hardcastle on motion of Hope.

HR 7 - (consideration continued)**HR 7 - DEBATE**

RAYMOND: Thank you, Mr. Speaker. Members, **HR 7**, some of you may remember me bringing this up a couple of day ago, this would change our House Rules effective immediately, directing committees, committee members, committee chairs, not to ask witnesses for social security numbers and the reason that I'm asking for this change, I've never seen a committee chairman or a committee members ask any witness for their social security number but last week, in the Rio Grande Valley, the chairman of the Redistricting Committee asked an hispanic veteran in a way that all of us who saw it felt was in an effort to intimidate that witness, asked that witness for a social security number. I think that that should never happen again. And that's why I ask for us to change this house rule.

MR. SPEAKER: Is there anyone to speak for or against?

REPRESENTATIVE NAISHTAT: Mr. Speaker.

MR. SPEAKER: Mr. Naishtat, for what purpose?

NAISHTAT: Will the gentleman yield for a question?

MR. SPEAKER: Mr. Raymond, will you yield? The gentleman yields.

NAISHTAT: Richard, I'm curious, can you think of a legitimate reason why any chairman of any committee would want or need to know the social security number of any witness who testifies?

RAYMOND: No, there isn't any legitimate reason and as I've said the only reason I think the chairman asked the witness that day was to try to intimidate that witness.

NAISHTAT: It's perfectly appropriate to ask a witness for his name and even for his address I believe, is that right?

RAYMOND: Yes.

NAISHTAT: And you put that down on the witness affirmation list, is that right?

RAYMOND: That's correct.

NAISHTAT: Does it call for a social security number on the witness affirmation list?

RAYMOND: I think all members here, I hope all members here, believe that that's, we shouldn't be asking anyone to publicly state their social security number. It's part of open records and a lot of us in here have introduced and passed and fought very hard for legislation to prevent identity theft and putting this in the House Rules, I hope, will prevent members in the future from asking any witness for their social security number.

NAISHTAT: Thank you.

REPRESENTATIVE BERMAN: Mr. Speaker, will the gentleman yield?

MR. SPEAKER: Do you yield, Mr. Raymond?

RAYMOND: Yes.

MR.SPEAKER: The gentleman yields.

BERMAN: Mr. Raymond, we had a little discourse yesterday but I support your resolution. I think it's a good idea and I think we should all support it. Thank you.

RAYMOND: Thank you very much. Mr. Speaker, I move adoption and I'd like a record vote on this.

SPEAKER: Chair recognizes Mr. Keel to speak against the motion.

REPRESENTATIVE KEEL: Members, I understand the politics behind this and I understand that there's an allegation that Mr. Raymond wants to make that one of our chairman was inappropriate in a committee meeting, but I think this resolution's wrong and I'm going to vote against it and I'll tell you why. The tradition of the house of representatives and these committees is that you are, when you conduct these committee meetings, you have the power of a grand jury. And inherent in that is that you operate with good discretion but that you are authorized to look into things. And once we start letting politics play with our rules where we come up piecemeal and start saying you can't do this and you can't do that later you may regret it. Now, I can't think of a situation where I'm going to ask a committee witness their social security number, but I'm real hesitant for us to pass a rule that forbids it in the future because there may be something in the future that I'm not anticipating such as identity that I'm trying to establish that may make this real bad policy and I just think this is politics, this resolution, and it's the wrong time to do it. Secondly, I want to point out, the House Committee on General Investigating does have reason to ask for that type of information, and I saw no distinction in this proposed resolution to exempt the House General Investigating Committee. That committee has statewide subpoena authority and often interrogates witnesses in secret and does ask for information that is sensitive and this would prohibit that committee from doing that, and I don't think you want to tie the hands of the house of representatives with a silly resolution like this. Mr. Raymond wants to make a political statement, he needs to make a political statement, but we don't need to adopt it as a rule, especially where you may have an interest in a committee gathering information that you're now not going to be able to gather. Therefore, I'm going to vote against it, I think it's bad policy.

REPRESENTATIVE HEGAR: Mr. Speaker.

MR. SPEAKER: Mr. Hegar, for what purpose?

HEGAR: Will the gentleman yield for a question?

MR. SPEAKER: Do you yield, Mr. Keel?

KEEL: I yield, Mr. Speaker.

MR. SPEAKER: The gentleman yields.

HEGAR: Mr. Keel, if this is going to the issue of potentially intimidation, do you not believe that if the chairman wishes to intimidate any person who is testifying before a committee, or actually any member who's sitting on that committee, they have the ability to intimidate that person because they're probably coming and testifying for the first time, typically? The members are used to the process where the general public is not. The intimidation is there regardless of what you're asking that person. Wouldn't you agree?

KEEL: That's exactly right and if we start reacting to individual committee chairman, who by the way change every session, by piecemeal restrictions on the house of representatives we are going to tear down this process, we're going to tie our hands, and we're going to have unintended consequences. There are lots of examples we can come up with where chairmen maybe didn't do it that way, maybe you or I would do it but we don't get up here and pass resolutions. This is not the proper way to handle it. This is the wrong way to handle it, it is bad for our institution of the house of representatives.

HEGAR: Currently if a committee clerk or the chairman doesn't make sure that a phone number is on the witness affirmation, if their address is not on the witness affirmation, is that not a point of order?

KEEL: Those have been raised as points of order.

HEGAR: In that my question is this: at least myself, I don't typically like putting down my phone number or my address so a chairman can have it which then goes into the public documents. If a person wants my phone number go look it up on the internet if they so, why do I have to provide that information again when it's already out there, but what we're going to do is we're going to start down a slippery slope deciding what chairmen can and cannot do. And I don't think that's the process of what we want to do.

KEEL: Well, we're, what we are doing is we are starting down the road where we're going to take away legislative authority and we are going to undercut our legislative authority. We shouldn't be doing this anymore than we should say that a grand jury can't ask that question. That's the point is we are now taking the legislative branch of government, we are going to make it weaker than the judicial branch of government or the executive branch of government by tying our hands, and I guarantee you down the road in a few years we are going to regret it if we do these kind of things.

HEGAR: So now we're going down a slippery slope of trying to make a political statement but instead we are tying the hands, potentially in the future, of chairmen, so maybe in the future we can't even ask a person what their name is because that might intimidate them.

KEEL: That's right.

HEGAR: We can't ask you your name, we can't even ask you anything, so does that mean that when you come to testify before a committee, me as a members, I can't say, "I'm sorry now what county are you from?" I can't ask those questions because that might intimidate.

KEEL: We're taking a political situation that's a few days old and we're about to make a dramatic rules changes that ties our hands and even if you think that the specific situation we're addressing isn't worth being asked, you are undercutting the authority of the house of representatives and eventually you're going to regret it. And I'm telling you, the House General Investigating Committee does ask this kind of question and needs to be able to ask it and we will regret it if we pass this resolution.

HEGAR: To me, if we're going to do this we might as well just say we can't ask you your name, your address, phone numbers, or anything because that's what we're doing. Thank you.

KEEL: I agree with you.

REPRESENTATIVE NORIEGA: Mr. Speaker.

MR. SPEAKER: Mr. Noriega, for what purpose?

NORIEGA: Would the gentleman yield?

MR. SPEAKER: Do you yield, Mr. Keel?

KEEL: I yield.

MR. SPEAKER: The gentleman yields.

NORIEGA: Mr. Keel, I certainly understand your concerns as it applies to the House General Investigating Committee and I think that's a very valid point. In fact, I would have hoped that the House General Investigating Committee would have done due diligence on a whole host of other issues this session as it applies to destruction of documents, illegal searches, and a whole host of other things. Would you be amenable as it applies because, I mean, I know Terry, we've been a real proponent about privacy and people's personal identification things. Would you feel if the General Investigating Committee were omitted, I just wish you had been able to witness the, the manner in which it was addressed when a Korean War veteran of GI Forum is asking questions of the chair and the chair responds, "What's your social security number?"

KEEL: Representative Noriega, I don't know, I didn't see that, but let me just say this: I don't dispute it and I don't question your sincerity or the author's sincerity but here's the problem. If you're trying to slap around the committee chairman who did that, this is the wrong way to do it. I'm telling the rest of the members, this is the wrong way to do it. You're going to, you are undercutting the entire house of representatives for the purpose of slapping around somebody you disagree with.

REPRESENTATIVE HOWARD: Mr. Speaker, will the gentleman yield? Will the gentleman yield for a question?

KEEL: I do yield.

MR. SPEAKER: The gentleman yields, Mr. Howard.

HOWARD: Mr. Keel, do you think it might be important during committee meetings to know whether someone is a resident of this state and or a citizen of this country when they're testifying, particularly if what we're trying to do is determine law to effect our citizens of this state?

KEEL: There are so many things that you cannot anticipate that could become relevant that that's why you shouldn't pass this resolution. And, yes, those kinds of things might be relevant to the Elections Committee or to the Criminal Jurisprudence Committee or to some committee or to the what do we call it now, the border committee, those kind of things and it may not be a hostile question. Also, I want to point out something. When a witness appears before any legislative body, the United States Congress or state legislatures, they are in essence giving themselves, some measure of privacy up by being a witness. They're taking an oath to tell the truth and they are going to allow that to be scrutinized and cross examination, as any of the former prosecutors or defense attorneys will tell you is the heart of getting to the truth. And therefore, you do not want to restrict, if you will, the examination of witnesses before legislative committees. If you restrict the examination of witnesses before legislative committees you have done a disservice to the legislative branch of government.

HOWARD: Thank you, Mr. Keel.

TALTON: Mr. Speaker.

MR. SPEAKER: Mr. Talton, for what purpose?

TALTON: Will the gentleman yield?

MR. SPEAKER: Will you yield, Mr. Keel?

KEEL: I yield.

MR. SPEAKER: The gentleman yields.

TALTON: Thank you, Mr. Speaker. Representative Keel, I know the thing that I'm concerned with, are, did you receive a copy of the letter put out by the speaker's office regarding this?

KEEL: I did.

TALTON: And that is the way and the speaker is the one that asked the chairman not to do that, is that correct?

KEEL: I'm sorry, Robert, I couldn't hear you.

TALTON: I'm sorry. And in that memo it said the speaker said that that wasn't appropriate, is that correct?

KEEL: That is correct. Yes.

TALTON: And secondly, before we make rule changes, it kind of like we do, we ought to look at it and think about it and not make it for political reasons which is what we're in now, is that correct?

KEEL: I agree with you totally. And that, that memo said that they can't anticipate how that could be a proper question but it isn't, does not tie our hands in future years from asking that question and I think there's another consideration here which is this: we're going to now step into a situation where we are, we are going to start for the first time saying we can't do things as a legislative committee and that's a mistake. That will, that is a big mistake and that's why I'm going to vote against this resolution. I think it's bad and I think later it's going to be proven to be bad if it passes.

TALTON: I agree. Thank you.

KEEL: Members, I urge you to vote against this resolution, tempting though it may be politically to vote for it, I urge you to vote against it. It's the wrong thing and it undercuts the house of representatives. I urge you to maintain the ability of our committees to have equal footing with executive and judicial branches of government.

MR. SPEAKER: Members, we're waiting on an amendment. Following amendment, clerk will read the amendment.

READING CLERK: Amendment by Raymond.

MR. SPEAKER: Chair recognizes Mr. Raymond.

RAYMOND: Thank you, Mr. Speaker. Members, I'll get into talking about the, the um, resolution itself in a minute responding to Mr. Keel, but in response to Mr. Keel's first and only legitimate concern I think, I have this amendment that says the General Investigating Committee in examining witnesses pursuant to an investigation by the committee may require the witness to provide the witness' social security number for the purpose of identification. Move adoption. Oh, did you want to, did you want to add something?

REPRESENTATIVE GIDDINGS: Yes.

MR. SPEAKER: Ms. Giddings, for what purpose?

GIDDINGS: Will the gentleman yield for a question, Mr. Speaker?

MR. SPEAKER: Mr. Raymond, do you yield?

RAYMOND: Yes.

MR. SPEAKER: The gentleman yields.

GIDDINGS: Representative Raymond, you and I are certainly on the same page. If you're trying to correct a situation that I read about in the paper and if it happened the way it was alleged to have happened, I find that very, very offensive, as I'm sure you do. Is that not right?

RAYMOND: Yes.

GIDDINGS: I am wondering, Mr. Raymond, is there some way to deal with this specific issue with the specific party that participated in the offensive conduct?

RAYMOND: There's nothing that I can do to the chairman of the Redistricting Committee for asking a witness for their social security number. But let me tell something Ms. Giddings, if we don't put this in the rules, according to the rules and according to the laws of the State of Texas, if any member of the house asks any witness for their social security number and that witness does not give it to them, unless we accept my resolution, and change the house rules, that witness is subject to fine and also subject to possibly go to jail. So this isn't a political statement, this is putting in the rules something that most of us thought wasn't necessary but obviously is. And it's one thing that we cannot ask witnesses for their social security numbers. With the amendment that I'm doing, if there's a General Investigating Committee need to do it in a private session where it wouldn't be open to the public, the General Investigating Committee would still be able to do it. So I can't do anything to miss—

GIDDINGS: If it is a major concern for me, and I don't know if you have seen the letter that the speaker sent out to us.

RAYMOND: I saw the letter the speaker sent out strongly encouraging committee members and, I guess, chairs not to ask witnesses for their social security numbers. So in following with the speaker's letter, I'd like to put it in the house rules that we cannot ask witnesses for their social security numbers.

GIDDINGS: Thank you, Mr. Raymond.

RAYMOND: Members, again, the amendment I'm offering to the resolution simply states that the General Investigating Committee, in examining witnesses pursuant to an investigation by the committee, may require the witness to provide the witness' social security number for the purposes of identification, and I move adoption of the amendment.

MR. SPEAKER: Mr. Keel to speak on the amendment.

KEEL: OK members, here we go. We have the author of the resolution, and it only takes us 15 minutes before there is unintended consequences from this resolution. This amendment proves it. Already we are carving exceptions to our exception. That ought to trouble you that it took us 15 minutes before we realized this resolution doesn't work, we need an exception. Look, our rules don't require a witness to disclose a social security number. A witness can just refuse to answer the question. What you are about to do is pass a resolution that says you can't ask a question. That's what's wrong with this. How many more minutes is it going to take until we figure out some committee has some other exception to this? Where it's trying to compel attendance or something like that. That's what's wrong with this kind of thing being done on the house floor through a resolution. This is wrong. It isn't going to work. The amendment doesn't fix it, it just underscores the point—the point that this is a foolish move by the house of representatives.

RAYMOND: The only foolish move by the house of representatives would be to not adopt this amendment to my resolution. The amendment says General Investigating, if they need a social security number from a witness, can ask that witness in private. And the resolution simply states that other than that, we

cannot ask people from the State of Texas in a public setting—compel them—compel them by law and by penalty by fine and subject to jail time if they don't give us a social security number. You know, I don't know why Mr. Keel's getting all worked up about this. You'd think he'd be in favor of not having to compel witnesses to give their social security numbers in public. It's that simple.

REPRESENTATIVE CASTEEL: Mr. Chairman, would the gentleman yield?

RAYMOND: Yes.

MR. SPEAKER: The gentleman yields.

CASTEEL: Mr. Raymond, of course I am over the age of 29 and so I may be coming from a different mindset, but why would I care if somebody asked me my social security number? They do it every day. I give them my social security number, I give them my driver's license, I give them my address, I am listed in the New Braunfels phone directory in about five places. I don't care that people know where I live, I don't care that people know who I am, I don't care that people know my social security number. I can't understand what the fuss is.

RAYMOND: Well, ma'am, I'll tell you what the fuss is. This is my fifth session, and for most of my five sessions, a lot of us have been concerned about identity theft. A lot of us have worked very hard so that people don't have to give their social security numbers out unnecessarily. If you want to give your social security number to the world, go ahead and announce it now and let the world know, but—

CASTEEL: 462-62-2491

RAYMOND: But most Texans don't want to do that, most Texans want their identity protected, most Texans don't want their social security numbers to be a matter of public record.

CASTEEL: It would appear to me, although I may be incorrect, but it would appear to me that to protect identity theft that we do something legally to punish those people rather than try to hide behind some facade that we're doing today doesn't make sense to me. I don't mind giving you my social security number any time, any time of the day, any day of the week. Thank you.

RAYMOND: Ms. Casteel, most Texans do not agree with you. Most Texans do not want their social security numbers to be public, and I believe that most Texans do not want to be asked for their social security numbers and compelled by law if you go before a committee to give it and it becomes public record. So the amendment before us, members, is that the General Investigating Committee would be able to ask, in private, as part of an investigation, if they thought it necessary for someone's social security number. Record vote—I withdraw request of record vote.

MR. SPEAKER: Is there an objection to the adoption of the amendment? Chair hears none, the amendment is adopted.

RAYMOND: Members, Mr. Keel and I have worked together on other things, and I respect his thoughts on this, and I wasn't going to make it a big deal. I think it was a big deal that a witness in a public meeting was asked by a chairman of committee for their social security number, and I thought it needed to be fixed in the house rules, because under the house rules right now if you ask a witness they have to give it to you, and that's wrong. My resolution doesn't get into a slippery slope of anything. As Mr. Keel knows, we can always amend house rules, and in fact every session we do. We adopt the rules as we think are necessary. This rule simply would say a committee, with the exception of the General Investigating Committee, may not require or request the witness to provide the witness's social security number. It's that simple. Identity theft is a big issue for a lot of us in this house. If there is objection to the adoption of **HR 7** than I will ask for a record vote, if there isn't, I won't.

MR. SPEAKER: Chair recognizes Mr. Eiland.

REPRESENTATIVE EILAND: Mr. Speaker, members, I usually agree with Chairman Keel with most things, and when I am in doubt, I always defer to him, but in this situation I couldn't disagree more. Let me tell you one thing. My social security number is none of your damn business. There's too many things that can go awry when you know somebody's age, name, address, social security number, and mother's maiden name. And you can find that out very easily. At the beginning of this session, we all got very concerned when 55,000 social security numbers at The University of Texas were stolen or obtained through the computer. Everybody was very concerned about that, and now we are fixing to give them away. We are fixing to require people to give their social security number away, and I can tell you that causes many people concern. We don't need it, it's not necessary, and it doesn't matter. And we don't need it in the General Investigating Committee either. I was on that committee with Mr. Keel, and I can't think of a situation where we needed to ask somebody testifying on a bill what their social security number is. Thank you.

MR. SPEAKER: Chair recognizes Mr. Jones.

REPRESENTATIVE D. JONES: Mr. Speaker, members, I am going to ask you to listen to me carefully. I don't think we need so much division. I make a motion that we table this resolution.

MR. SPEAKER: Chair recognizes Mr. Raymond to close.

RAYMOND: Thank you, Mr. Speaker, members. I ask you not to vote to table this resolution. You vote to table this resolution, and you are telling the people of Texas get ready, we're going to ask you for your social security number. That's wrong. It's a very simple resolution that I have, and I will ask for a record vote.

REPRESENTATIVE HUPP: Mr. Speaker, will the gentleman yield?

MR. SPEAKER: Do you yield, Mr. Raymond?

RAYMOND: Yes.

MR. SPEAKER: The gentleman yields.

HUPP: Richard, you know I've done a lot of stuff with trying to prevent identity theft. I am sure you're aware of this, but you do realize that once somebody has your name, your address, your phone number, and your social security number that they can open a line of credit or get a credit card anywhere? You do know that?

RAYMOND: I do know that. That's why I am asking members not to vote to table this resolution.

MR. SPEAKER: Members, excuse Representative Goodman due to important business on the motion of Representative Swinford, excuse Representative Bailey due to important business on motion of Representative Luna. Is there objection? Chair hears none, so ordered. Mr. Raymond moves passage of a resolution, Mr. Jones moves to table. All those in favor of the motion to table vote aye, all those opposed vote no. It is a record vote. The clerk will ring the bell.

MR. SPEAKER: There being 65 ayes, 66 nays, the motion to table fails. Chair recognizes Mr. Raymond.

RAYMOND: Thank you, members. I would ask that you adopt **HR 7**. I didn't intend for this to go on this long. I respect Mr. Keel for making it a bigger deal because it is a big deal that we not compel witnesses in the State of Texas to come before us and ask them for their social security numbers, and if they don't give it to us, they are subject to fine and possible imprisonment, and that is wrong. Please vote for **HR 7**. We'll put it in the rules that witnesses won't be asked for their social security numbers any more. And I ask for a record vote.

MR. SPEAKER: Excuse Representative Hardcastle due to illness on the motion of Representative Hope. Is there objection? Chair hears none, so ordered. Chair recognizes Mr. Keel.

KEEL: Look, members. Keep in mind, he keeps saying that this is a vote not to compel a witness to give you their social security number. Wrong. This is a resolution to prevent you from asking a question. He is wrong, they always have a right—have you read the constitution of the United States? You can refuse to answer any question that you want to. There is no such thing as compelling this information under our rules right now. What you're about to do is limit your ability to ask a question, and that is wrong for you to do that. It doesn't matter what the subject matter is. This may be a particular instance where you think that this question can never be relevant, but already within 15 minutes we carved an exception. And if I hadn't made a big deal out of this, we wouldn't have had that exception. So you see the unintended consequences when we do resolutions on the house floor like this. This is wrong. This should go through the committee process. It should go through the Rules and Resolutions Committee. It should be thought about, it should be debated, it shouldn't be done in the heat of a political moment to make a statement about one of our individual members asking a question that people took offense to.

REPRESENTATIVE MENENDEZ: Mr. Speaker, would the gentleman yield for a question?

MR. SPEAKER: The gentleman yields.

MENENDEZ: Terry, I have the utmost respect for you and your knowledge. My question is, what purpose does asking the simple question of what your social security number is? What purpose could it ever serve? Because if I understand the resolution, it simply says that you may not ask the social security number. In your mind, what purpose does it serve, other than to identify nationality or something else—identification of some sort?

KEEL: Well, it may not be a hostile question. It may be something the witness wants to establish identity about. It may be relevant. You know, I'll tell you that in the judicial process it is relevant. It's used to clear people of things sometimes on mistaken identity. You see what I'm saying? This may be something that may be an advantage to be asked by a member of committee to someone. Now, I am not saying that that is going to be an everyday occurrence, but that is what is wrong with this. Look, forget this business about compelling someone to give their social security number, that's not going to happen. That doesn't happen, it can't happen. What you're doing is saying that you can't ask the question. If you start down this trail where you say that representatives in this body can't ask questions, you will never be able to anticipate the unintended consequences, and that's why we are starting down the wrong road if we pass this. That is why I am voting against it, that's why this is wrong. That's why Craig Eiland is wrong—he says it's nobody's business. That's right, there are lots of things that are nobody's business, but this is not some sort of encounter group. These are legislative committees where individuals are testifying under oath and you do not want to restrict cross examination, because you will not get to the truth if you do that. And the truth, representative, sometimes benefits the witness as much as the legislative committee.

MENENDEZ: Terry, is it not current practice that any time a witness signs a witness affirmation form, that they are signing this under oath? Therefore, every thing that they say, they hold to be true. Is that not current practice?

KEEL: That is correct.

MENENDEZ: So my question once again is, maybe I didn't express it correctly, my question was more—don't you believe that asking someone their social security number, someone who will probably never have testified before a house committee or a senate committee—asking them their social security, don't you believe that would bring a sense of intimidation?

KEEL: Any question could bring intimidation. There are all kinds of things we are leaving off this list that could be intimidating. Asking someone where they are from could be intimidating. Is that what's next? You know there are situations where social security numbers become relevant. For example, and I'll give you a lot of examples in the grand jury where this comes up. For example, sometimes the military personnel put the last four digits of their social security number identifiers, and there's property we find, and we only identify a body because of the social security numbers sometimes. Now the legislative

committee process may not get that detailed, but you are restricting the committee process by restricting a question, not an answer. The answer's protected. It's the question that you don't want to restrict.

REPRESENTATIVE DESHOTEL: Mr. Speaker?

KEEL: And, yes, I will yield.

MR. SPEAKER: The gentleman yields, Mr. Deshotel.

DESHOTEL: Terry, I understand the concern by many members of disclosing their social security number, which will then be on the internet and all over the world for everyone to know. If the issue is to know whether or not the person is a citizen or what, the resolution as I read it—you can still say, Mr. Smith do you have a social security number and he can say yes or no. So, what is the need to know what that number is?

KEEL: There is no need. There may never be a need, but there might be, and I can't tell you what that need will be because I don't know what it is yet. What we are doing for the first time is we are shooting in the dark and tying our hands from asking a question that may indeed be relevant. I have given you examples where it may be relevant in a judicial function, and we are a quasi-judicial body when we meet as committees and interrogate witnesses. Look, it doesn't matter that they've taken an oath to tell the truth, that doesn't matter. People do that in courtrooms every day, but we don't restrict relevant questions. If the question becomes relevant, it needs to be asked, and the witness can refuse to answer it, Ms. Hupp. You don't have to disclose your social security number, but you're voting with people who are going to restrict your ability to ask a question, and that is what is wrong here. That's why this body needs to protect itself from undercutting itself.

DESHOTEL: Terry, you said that it doesn't matter if the person tells the truth, so if you ask me for my social security—

KEEL: What I'm saying is that oath does not ensure that a person is going to tell the truth. It's designed to invoke their conscience, but people commit perjury every day, Representative Deshotel.

DESHOTEL: I understand, and that is why I am saying—

KEEL: And therefore you—

DESHOTEL: Terry, would you let me finish?

KEEL: Let me answer. I yielded for questions, but I am allowed to give answers.

DESHOTEL: I have a question.

KEEL: Well, you've asked it and I am answering it. The reason is because you have to be able to ask relevant questions to test the veracity of the witness. And no, I can't anticipate—I've never asked for a witness' social security number, and I don't know that I ever will—probably never would. Maybe no one ever will again, but this resolution is wrong, members, because it's telling you that you can't ask a question, and you better be careful about doing that as a legislative

body. You don't want to do that, you don't do that to judges, you don't tell judges that they can't ask a question, you don't tell prosecutors and defense attorneys that. The reason you don't do that is that you don't know what will be relevant, and you don't know what will be material until the testimony and the subject matter occurs and it changes every day. Do you have any more questions?

DESHOTEL: Yes, I was saying that regarding the question and the witness affirmation form, if you ask me my social security number, I can tell you that it is 456-92-2293. That doesn't tell you anything if that's not my social security number.

KEEL: It'll tell me you're lying if I do know your social security number, won't it?

DESHOTEL: It'll tell you that, but in the same way you could ask them, "Do you have a social security number."

KEEL: My whole point is that the purpose of full examination of a witness is not necessarily the veracity of what the witness tells you, but to determine the witness' veracity as a witness, and therefore whether or not they are entitled to be believed under oath. And I don't anticipate asking someone about their social security number, but this resolution is wrong. And you have already found out just a few minutes after the resolution was proposed, you already as a legislative body had to fix it. That won't be the last time that you have to fix it. Don't pass this resolution, it's wrong.

DESHOTEL: Terry, is there not other ways to determine a person's social security number if we are a quasi-judicial body? We simply need to know the person's name and we can get their social security number.

KEEL: You miss the point, it's not about social security numbers.

DESHOTEL: It is to the individual witness.

KEEL: It's about restricting questions before the subject matter is determined and before the witness has even testified. You may have a situation where it would be material to ask that question, and it may even be one where the witness wants it asked of them in order to establish something the witness wants to prove. That's what you are failing to see here. That you don't know what circumstance every committee in the future is going to be under when it interrogates witnesses. It may be to the witness' advantage to disclose that, and you are prohibiting that from even being asked.

DESHOTEL: Terry, if it's to the witness' advantage, does this resolution prohibit the witness from volunteering that information?

KEEL: How can a witness volunteer information unless they're asked, unless we ask a witness to give a narrative, which we can do, but that witness may not know that, Mr. Deshotel? That's what the point is here, is that you don't know. The witnesses come into a committee and they don't know the process.

DESHOTEL: Don't we ask the witness if they have anything to say regarding the pending legislation and they do give a narrative?

KEEL: I am sure we can come up with all kinds of ways. There's all kinds of things that go on. That's why this is wrong.

MR. SPEAKER: Representative Brown raises a point of order that the gentleman's time is expired. Point is well taken and sustained. Chair recognizes Ms. Dukes.

DUKES: Thank you Mr. Speaker and members. I'll be brief. You know, this discussion about the request of a social security number is really disturbing to me altogether. The affirmation that witnesses sign when they come before committee, we have been told time and time again, in each and every time a point of order was raised on the lack information on an affirmation form, that the only purpose of having the name, address, and the telephone number was so that we would have a means of contacting that individual who signed in to testify for or against a particular measure. One would have to ask, what would be the purpose of requesting the social security number. We don't have access to those databases where we could look up any information on them with the social security number. And if we did, what would be the purpose, we're not the IRS. It's not about us knowing whether or not they paid so much in taxes or they owe so much in taxes. It's not about them applying for a loan. So there's no need for us to know their credit rating. What is the purpose of having to request a social security number? Now it has been said by my colleague from Travis that an individual can choose not to answer the question. But, you and I know that most Texans, average Texans, who come before a committee of the house or committee of the senate, don't feel as confident and are not as knowledgeable about knowing their right to not answer a question if posed by the committee. Quite frankly, many of them would be intimidated not to answer such questions. So, it leads you still to the question of what is the purpose of requesting a social security number. Absolutely none. You already know too often by the use of social security numbers by individuals for other illicit means. And certainly the government, which is supposed to be protecting individuals and protecting their rights, should not be creating a very easy means for an individual's social security number to be taken and used by someone who is able to pull it through public information requests. When our forefathers set up Texas government, when they set up U.S. government, they thought ahead to insure that those who were coming before us, on the behalf of civil liberties or any other issue, would feel comfortable and not be intimidated by a process of government that is supposed to be for the people, by the people, and of the people. If we wish to continue to be open and to be in that way, we should do everything possible to not create a situation that intimidates. We should do everything possible to not create a situation that could allow for an individual's identity to be stolen from them. We should do everything possible to encourage participation in the process of our state government, and I ask you to vote for **HR 7**.

MR. SPEAKER: Chair recognizes Mr. Talton.

TALTON: Thank you Mr. Speaker, members. Y'all need to think about what we do as a committee. When a witness fills out a witness affirmation form, they are swearing that they're going to tell the truth. One of the reasons that Representative Keel was up here and others of us that are involved in the criminal law—there are a couple of reasons. When you testify in court or in a grand jury, you've got to testify that you're telling the truth. Now, what this resolution does is attempt to change our house rules for that reason and to change the house rules saying that, OK, you can tell truth—except you don't have to tell us your social security number if you ask for it. What is next? That's what you've got to think about. Secondly, there is a process that this goes through. We are here in the heat of a battle of a political decision that we are trying to make on redistricting, very political. This came up in a hearing down in the valley where a chairman allegedly asked a question. I wasn't present, I assume it was done, but be that as it may, even if there is a problem with that, this is not the time to make that decision. The time to make the decision is when we have gone through the process. As y'all know, when we change the rules we always have one or two unofficial meetings where anybody can participate. Now is not the time to make that decision. If you'll go and look at my votes when it comes to privacy, I'm there. I think it's something that we need to look at and think about before we do it, and that is why I am against this resolution, and Mr. Speaker, I would yield.

REPRESENTATIVE MCCLENDON: Mr. Speaker?

MR. SPEAKER: For what purpose?

MCCLENDON: To ask the gentleman a question.

MR. SPEAKER: Mr. Talton, do you yield?

TALTON: I do.

MR. SPEAKER: The gentleman yields.

MCCLENDON: Thank you, Mr. Speaker. Representative Talton, you said that when a witness fills out a witness affirmation form, that witness swears to tell the truth, is that correct?

TALTON: That is correct.

MCCLENDON: Well, if you, as a committed chair, ask the witness for his or her social security, wouldn't the witness be compelled to tell the truth as to what their social security number is?

TALTON: The witness could, or the witness could say that I refuse to give you that, that I've got a fifth amendment right, or whatever. Ms. McClendon, we are the ones that ask those types of questions. It's like a grand jury or if you're a witness on a stand, that's the idea of doing that.

MCCLENDON: I understand. But when you ask a witness for his social security number, and that witness says my number is such and such, doesn't that make that a witness' social security number public record?

TALTON: It would and so is mine. Mine is and I don't care.

MCCLENDON: Well, some people do care—

TALTON: I understand that.

MCCLENDON: Some people have serious concerns about identity theft.

TALTON: Ms. McClendon, the purpose of a social security number is to help identify who the person is. I am not saying whether it's right or wrong. What I am saying is that there is a time and place to do this, and this is not the time.

MCCLENDON: So, Mr. Talton, you are saying that when you are conducting a committee hearing and you're concerned about the identity of a person, you are going to stop and have a way to go and check a person's social security number?

TALTON: Ms. McClendon, I have never done that, and I can't think of a reason why because I always assume that most of the people are telling the truth. I have no reason not to, but if that question is asked, that would be one they would have to answer. But what I am saying, and you need to listen to what I am saying, is that this isn't the time and place to debate this. We need to do it through our regular proper procedures, not in the heat of a political decision that we're making now in redistricting. That's the only reason why this is being done in my opinion.

MCCLENDON: But it seems to me that maybe, because we're having so much discussion about this, that maybe this is the time and place for that because—

TALTON: I disagree. If that's a question, then I disagree with your premise.

MCCLENDON: I think we just have a basic disagreement because if I came before you and your committee as a witness and you, Mr. Talton, asked me for my number, I may not know that I have the right not to even answer your question. I may not know that I have the right take the fifth amendment. I'll be coming because I'm concerned about a particular issue, and I am coming to testify on a particular issue before your committee.

TALTON: Is that a question? Are you asking me a question?

MCCLENDON: I am asking you a question.

TALTON: Okay, I'll answer it.

MCCLENDON: I haven't finished my question.

TALTON: Well, I'm waiting.

MCCLENDON: Okay. I may not know of the procedures in a court of law because that's not why I came. So, as a committee chair, when you ask me a question about what my social security number is, I may be compelled to answer because I want to do as you said, tell the truth, because I have signed a witness affirmation form swearing that I will tell the truth, the whole truth, and nothing but the truth. Wouldn't you feel that the witness would be compelled to do that?

TALTON: The witness would be compelled to do it, or the witness could refuse to do that, or the witness could say, "I don't want to do that." The witness could do whatever he wanted to do. What I am saying is that the chair, if we start limiting now, what's going to be next? And the second thing I am saying is that this not the time and place to do it.

MCCLENDON: I think you may have a different level of thinking about how sophisticated the witnesses are. Many of the witnesses come to Austin and they are not people who have law degrees or have degrees in such matters that would let them know that they would have those kinds of options available to them. I think that we are presuming something that may not be true.

TALTON: Ms. McClendon, I will tell you that when I was doing criminal law in the eighties, and Mr. Keel and others who do criminal law can tell you, I will assure you that our clients, that most of them, regardless of whether they have a high school degree or college degree or whatever, know the law better than we do, usually.

MCCLENDON: I am not talking about criminals, I am talking the average Mary, Joe, or Jane that comes before a committee of this house to testify on an issue concerning his or her neighborhood or community. I am not talking about criminals. They may not have the sophistication of many people to know that they have the right not to stand before a committee chair and blurt out their social security number. They just may not know that.

TALTON: Most people, I think, understand the fifth amendment.

MCCLENDON: Thank you.

TALTON: Thank you.

KEEL: Mr. Speaker, will the gentleman yield?

MR. SPEAKER: Do you yield, Mr. Talton?

TALTON: I yield.

MR. SPEAKER: The gentleman yields.

KEEL: Mr. Talton, I know that you used to be a police officer, and I was a prosecutor and a police officer, and I want to clarify something with you that there have been some misstatements here. The fact is that a legislative committee does not have the ability to compel a witness to answer a question over a claim of privilege or fifth amendment and put them in jail, do they?

TALTON: That's correct.

KEEL: Mr. Raymond implied, but that's just false, isn't it?

TALTON: That is correct.

KEEL: In fact, even in a grand jury process, a question would have to be certified, taken before a district court judge, deemed to be proper and relevant, certified as a proper question, and then the judge would have to give him immunity, wouldn't that be correct?

TALTON: That's correct.

KEEL: Are you aware that under legislative contempt, in fact, what would have to happen is even more than that? The district attorney of Travis County would have to certify the question, the grand jury of Travis County would have to certify the question, and only then could any kind of contempt be proposed.

TALTON: That's correct.

KEEL: In fact, the implication that a witness could be compelled to give their social security number is false, isn't that correct?

TALTON: Yes.

KEEL: It would have to be something that a judicial process would have to determine as being material, relevant, and compelled to answer, isn't that right?

TALTON: That is correct.

MR. SPEAKER: Chair recognizes Mr. Swinford.

REPRESENTATIVE SWINFORD: Mr. Speaker, members, I am going to be on the bill. I am not for or against, I guess, but I sure have a question that I think we need to talk about. I am chairman of a committee, it's a very important bill, I have a freshman down here that doesn't know the rules, and maybe he's just a wild-eyed crazy person. We are in this bill and it's a big deal, and it's very serious, and he asks someone to give him their social security number. The way this resolution is written, we've just put a point of order on my bill that I can't get off. So what happens is if you put this in the house rules like it's written and somebody doesn't like your bill on your committee or doesn't like this bill, all they've got to do is ask a question. Or if they made an honest mistake and ask a question, you've killed this bill. This thing probably needs to be handled by the administration, or the rules, or something like that.

DESHOTEL: Mr. Speaker, does the gentleman yield for a question?

MR. SPEAKER: Will you yield for a question?

SWINFORD: Sure.

MR. SPEAKER: The gentleman yields.

DESHOTEL: I just want a clarification, Representative. Under what rule in the house rules would asking an improper question of a witness raise a point of order on your bill?

SWINFORD: Joe, I think the way this resolution is, it says that you cannot ask that question. It just says that you cannot ask that question. I agree, I don't think you should ask that question, that's not my issue.

DESHOTEL: That's not my question. If we adopt this resolution and I ask the witness what is your social security number, what rule would allow a point of order on that question?

SWINFORD: As I understand this resolution, it would be this rule. It would be this resolution if this is put into our house rules.

DESHOTEL: No, when you raise a point of order you have to cite in the rules what rule was violated that brings a point of order that could kill the bill.

SWINFORD: Joe, what I believe is that this makes this part of the house rules. This would become part of the house rules. This would become part of the house rules under this resolution, and consequently, you would cite whatever number is

given this rule and your bill would have a point of order on it and it wouldn't be an inadvertent thing. It would be a straightforward point of order on a specific rule. That's the reason I am a little bit—

DESHOTEL: I don't think that is the case, and I don't know if it would be proper to ask—it would be hypothetical to ask Steve—would that be a point of order.

SWINFORD: You're sure welcome to ask Steve, that's your privilege. I am just saying—

DESHOTEL: I don't want the members to think that if they ask this question, if this resolution passes, that that would be a point of order to kill the bill.

SWINFORD: That's the only way that I can interpret it, Joe. I am saying that you shouldn't do it, I don't think it's right, I don't think it should have been done, but I am saying that it's possible that you're putting a poison pill on a bill because the only thing I have to do to kill a bill that I don't like is ask that question. I think it's pretty serious and just want us to think about that.

DESHOTEL: Well, I mean, there are a number of rules that we go by as far as the house of representatives rules of decorum, rules on how you address people, and I've never seen one of those when a member got angry and said something personal to another member on the committee on the dais that someone raises a point of order that rule such and such says that you're not to make personal attacks on a member's credibility or personality, of that being raised as a point of order. And that's a violation of that rule.

SWINFORD: Joe, I could be mistaken, but as I understand the resolution as presented and potentially adopted, it would become a rule of the house that you could not ask that question. And it would be a specific rule, and if it was violated, it would be a point of order on your bill. That's what I understand.

DESHOTEL: Well, I respectfully disagree. Thank you.

REMARKS ORDERED PRINTED

Representative Rose moved to print the debate on **HR 7** up to the Swinford/Deshotel exchange.

The motion prevailed without objection.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

B. Cook on motion of Griggs.

Driver on motion of Griggs.

Hodge on motion of McClendon.

Kolkhorst on motion of Harper-Brown.

Puente on motion of Gallego.

The following member was granted leave of absence for the remainder of today because of important business:

Wilson on motion of Corte.

HR 7 - (consideration continued)

Representative Bonnen moved to reconsider the vote by which the rules were suspended to take up and consider **HR 7**.

A record vote was requested.

The motion to reconsider prevailed by (Record 4): 76 Yeas, 48 Nays, 1 Present, not voting.

Yeas — Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Corte; Crabb; Crownover; Delisi; Denny; Deshotel; Eissler; Elkins; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Krusee; Kuempel; Laubenberg; Mabry; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, W.; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Burnam; Canales; Capelo; Castro; Chavez; Coleman; Cook, R.; Davis, J.; Davis, Y.; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Escobar; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Guillen; Gutierrez; Haggerty; Hochberg; Homer; Hopson; Jones, D.; Jones, J.; Luna; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Quintanilla; Raymond; Rodriguez; Rose; Telford; Uresti; Villarreal; Wise.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Allen; Bailey; Cook, B.; Dawson; Driver; Goodman; Hardcastle; Hodge; Kolkhorst; Nixon; Olivo; Puente; Ritter; Smithee; Solis; Thompson; Wilson; Wolens.

Absent — Laney; Lewis; Oliveira; Peña; Pickett; Smith, T.; Turner.

The motion to suspend the rules was withdrawn.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 2.)

ADJOURNMENT

Representative Bohac moved that the house adjourn until 2 p.m. Monday, July 7.

The motion prevailed without objection.

The house accordingly, at 12:19 p.m., adjourned until 2 p.m. Monday, July 7.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 47 (By Nixon), Relating to civil claims involving exposure to asbestos.
To Civil Practices.

HB 51 (By Allen), Relating to the creation of a select committee to study prison privatization.

To Government Reform.

HB 53 (By Swinford), Relating to designating the presiding officer of the governing body of certain state agencies.

To Government Reform.

HB 54 (By Swinford), Relating to excepting certain budgetary working papers from required public disclosure.

To Government Reform.

HB 56 (By Callegari), Relating to the qualification and appointment of the commissioner of insurance.

To Government Reform.

HB 57 (By Casteel), Relating to the abolition of the Office of State-Federal Relations.

To Government Reform.

HB 58 (By Casteel), Relating to the oversight of regional planning commissions by the governor and the state auditor.

To Government Reform.

HB 59 (By Casteel), Relating to the governor's budget and the governor's report on state agency efficiency.

To Government Reform.

HB 60 (By Allen), Relating to the qualifications for membership on the Parks and Wildlife Commission.

To Government Reform.

HB 61 (By Allen), Relating to the abolition of the Texas Commission on Private Security and the transfer of its functions to the Department of Public Safety of the State of Texas.

To Government Reform.

HB 62 (By R. Cook), Relating to energy conservation by state agencies through the use of fuel-saving technology and utility cost savings contracts.
To Government Reform.

HB 63 (By R. Cook), Relating to meetings of the Legislative Budget Board conducted through the use of certain telecommunication devices.
To Government Reform.

HB 64 (By R. Cook), Relating to the abandonment of proceeds distributable on reorganization of an insurance company.
To Government Reform.

HB 65 (By Gallego), Relating to the composition of the Texas Building and Procurement Commission.
To Government Reform.

HB 66 (By Gallego), Relating to qualifications for membership on the Texas Veterans Commission.
To Government Reform.

HB 67 (By Gallego), Relating to the review of the organization and operation of each university system and system office.
To Government Reform.

HB 73 (By Bonnen), Relating to the permitting procedures of the Texas Commission on Environmental Quality.
To Environmental Regulation.

HB 74 (By Capelo), Relating to appropriating the fees relating to the office of patient protection collected by certain licensing agencies for the Health Professions Council under **HB 2985**, Acts of the 78th Legislature, Regular Session, 2003.
To Appropriations.

HCR 2 (By Craddick), Congratulating the Reverend Dr. John D. Gerlach and the members of Crestview Baptist Church of Midland on the occasion of the church's 50th anniversary.
To Rules and Resolutions.

HCR 3 (By Craddick), Honoring Nancy McKinley of Midland for her dedication to preserving and promoting Texas heritage.
To Rules and Resolutions.

HR 4 (By Chisum), In memory of the Reverend Marion Burleson Smith of Pampa.
To Rules and Resolutions.

HR 5 (By Craddick), Honoring the speaker's special services staff.
To Rules and Resolutions.

HR 8 (By Hochberg), Honoring Jose Carlos Guerra on being named Gulfton's Citizen of the Year by the Greater Southwest Houston Chamber of Commerce.
To Rules and Resolutions.

HR 9 (By Hochberg), Honoring Jerry Branch for being named Sharpstown Citizen of the Year by the Greater Southwest Houston Chamber of Commerce.
To Rules and Resolutions.

HR 10 (By Martinez Fischer), Honoring the Reverend Dr. L. A. Crenshaw on his 50th pastoral anniversary at Palestine Baptist Church in San Antonio.
To Rules and Resolutions.

List No. 2

HB 75 (By W. Smith), Relating to the power of a commissioners court in certain counties to expand the jurisdiction of a county civil court at law to include condemnation proceedings.
To Judicial Affairs.

HB 82 (By Hamric), Relating to the abolition of the state aircraft pooling board.
To Government Reform.

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, July 3, 2003

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SCR 1 Whitmire
Granting the legislature permission to adjourn for more than three days.

Respectfully,
Patsy Spaw
Secretary of the Senate